

Free riding, or others pocketing the commission on the sale of goods, when others offer the service support for it, does not apply to funeral related goods, such as caskets or outer burial containers. They have warranties which are passed onto the manufacture whenever needed. Support is very limited I might add, as once in the ground, most often a matter of days after the purchase, not many at all are ever seen again. So it cannot be said low service verses high service is an issue in permitting restrictions on funeral related goods to only licensed funeral directors.

While some have said one needs to have a "brick and mortar" store to achieve success at selling caskets, locally or over the internet - they are mistaken. There are several third party outlets, where the "catalog" of product offered on the internet, is the only showroom they have. While other casket stores have no web site, just the store front locally, the method of offering WHICH funeral goods is the issue. If the retailers are not permitted to procure the name brand caskets, or not permitted to get also the wholesale goods of grave liners, why are they even in business? Is not that the intent of the funeral product manufactures -- to eliminate, shackle all of the competition - locally and on the internet?

Issues NOT relevant to selling funeral product on the internet, 1 Name brand is not what is shopped - or "try before you buy" necessity for size/ looks or desiring to be able to try the scent of a perfume or even having mass amounts of the same product available for delivery in any one day. While not all units fit all sizes, the weight or height of a person is the standard practice to determine which product is best suited. Because many internet outlets do not store the product - meaning they drop ship from the source, as do many local funeral directors, product of every available size, color or manufactured brand on hand is not a requirement. Nor is it an issue on the internet -- that the manufacture's products are being sold for a higher cost than the brick and mortar storefront -- thus overcharging for goods and giving the firm a bad reputation for internet sales. It is instead, the holding of the price artificially high at the local funeral parlor that makes the customer upset. When they see discounted goods online, and need to show perhaps, to the casket salesperson at the parlor, the discounted price, to get a good deal --often discounted now by several hundred dollars, that upsets the public. It could be the practice for a funeral director to use the internet to direct the public to their brick and mortar offices, saying that there they would find a substantial or significant discount on the funeral product. However, instead what is practiced, discounts are selectively given only to the consumers who have studied the prices and offers to go outside the parlor to get a decent price on funeral goods.

The overall arrival of the internet -- along with the implementation of the Funeral Rule, assisted greatly in allowing prices to come down in funeral cost. Now however, with firms trying to monopolize the field, and funeral director associations becoming teachers of how to slander casket store retailers, these new channels for the public to have as a resource for bargains and many other choices, are drying up.

- There are handfuls of casket manufactures left as the result of large corporations buying out some of the others. The death industry dollar amount being spent is huge and only big marketplace contenders are controlling who is able to purchase product. These companies should have closer inspection each time one buys or sells a company to another. The same holds true for vault companies. York Vault was sold to Doric Vault, York caskets to Matthews (although Wilbert was a consideration as well), Clarksburg caskets to Aurora to name a few. **How is it possible that these firms all are able to eliminate the casket store trade & have only licensed funeral directors as customers without it being collaboration to do so?** Without the knowledge that this happens, others do not think much if one firm sells to another. Now however, the FTC and others should be very concerned about the players in this marketplace - and sales or purchases of death care industry companies to another firm. The sole "dealer" of these death products (the funeral director for dominant brands) - have market power to₂ boycott and restrict who the other players are. Restraints such as these need to be struck down, before more entrepreneurs are forced out of business. The public has not and is not being protected by these actions of the "Robber barons." A selling point that has been made up/ used from some morticians, "Casket stores only last about 18 months, you never know about them." While sadly many are forced out of business, a majority of the NCRA members are the dominant long standing retailers, being in business three - five years or more. While many have folded thanks to all of the restraints, our record is untarnished in distributing product to the public.

For the NFDA to report that matters related to casket stores, " are freely selling caskets all though out the

United States" suggests they are not in tune with the funeral directors - in all states. If they instead had conducted a true scrutiny to see if any had/have taken steps to fight against retailers selling or delivering in their state, as Louisiana has toward a one particular Jerry Womack, their report could have perhaps been respected as more straightforward. (Copy email below detailing- contact him direct for more information.) We are encouraged many professionals have and are working with us to improve this field. We are also hampered in our cause, that so much lobbying against consumer interests is permitted.

Jerry (daughter who has a casket store in Jackson Mississippi) was delivering caskets purchased from her store to her customers in Louisiana, until he was stopped by this legal and very costly action taken by the funeral board of directors in that state. He has a federal lawsuit slated to go to trial on the 2nd of Jan. 2003, putting him out of business for more than one year, and his daughter's store survival, income at risk, -- and saving the public money - until this matter is resolved. For the NFDA to say that it is not aware of any issues in free trade over the internet, this is one of many examples in La. There used to be "half a dozen" like Jerry there, however they have all given up, due to the threats, intimidation and legal action from this funeral board.

Or Coy Gremlillion in La who was so determined he was going to succeed at selling caskets in La that he overcame all stipulations, including opening a funeral home, now selling caskets and funeral product on the internet, and delivering to funeral homes all across Louisiana. Most do not have this action as a resource for consideration against anti sales strategies. <http://www.lastwishcaskets.com>

The whole situation boils down to this. A casket store retailer is simply another way of doing business. In offering the public a choice in funeral product, bargains they will never get without competition in the death care industry. 4 Sites are not offering the name of owner/corp for shoppers. It is perhaps like one needing to fulfill a prescription at the pharmacy. The doctor has offered the patient the choice of the name brand drug, or the generic. The pharmacy fills your order - period. One brand is \$81.00 and the other - being equal to or better than the older brand, the generic is only \$28.00. The druggist offers no resistance to the choice of the generic. No slanderous remarks or "up sell" to the higher priced name brand. As it should be, while the druggist, who had to become licensed to do his job, may make money on the sale of the goods in his store, he allows freedom of choice with the purchase of the product. As CVS drug store in Mentor Ohio, tells me, "When people have a choice, the purchase of the generic over the higher priced name brand is as high as 80% and elect to go for the savings."

- We really do not desire to offer our customers the brands that keep their prices artificially high. We have the product that is equal to or better than, at a less price. Caskets are not purchased by name brand as a rule - hardly ever - grave liners even less (if so, it is only part of a sales pitch by rivals). We do however want to have the option of closing the gap when the funeral director says we cannot offer them, as one of their selling points. Prices will come back down on those caskets and slanderous remarks will be put to rest. The American people will only then really have any freedom of choice - or not be held captive to high prices -- and that is what this is all about.

As far as the casket stores being under the funeral rule, please look at the past record concerning the NFDA and their member associations -- with inferences towards the growth or inclusion of retailers in the funeral marketplace. Another made up sales pitch from some funeral directors; "The Federal Trade Commission says we have to take caskets from third-party suppliers, but the problem is the FTC doesn't regulate third-party suppliers." We would like to address the fact there has been no need, like in other areas of the funeral industry. In fact - third party retailers have a great reputation, along with offering great prices. While casket retailers certainly observe the important role that true professional funeral directors play in their occupation, we should be afforded the same respect. Using these made up pitches as sales ploys - along with questioning the ability of casket stores to be long standing, or get all death care product for resale as part of the sales pitch is downright dishonest when it is **this domain that cause these plights.** **As well as when flat-out lies about state laws /embalming are told, or other "funeral Rule" concepts are ignored - the high non-declinable fee is permitted, and society kept in the dark or offered few real choices.** _

The issue of pre need sales has come up. The majority of casket store owners do not sell pre need at all. Many, due to the fact they are prohibited due to the state they are in. The balance of the retailers feel

strongly about the public getting what they paid for, and keeping the pre need funds in a contract, where 100% of the funds are kept at the bank. We feel **this pre need field should be strictly regulated and can't understand why there is silence from some of the trade groups** in regard to the loosening of preneed sales restrictions in certain states. There has been much abuse by the funeral industry already in this area of pre need. The FTC sees the value the casket retailers offer -- more than one voice needs to be heard. More than one enlistee needs to overlook the funeral rule if the NFDA is permitted to be an all encompassing voice - or even who the FTC looks to for monitoring of the Rule. In a free trade market, the public votes with their dollars spent on what market grows. In this one, others feel their turf is being threatened and are trying more regulations in state and federal levels to stop or eliminate any growth. While it is utmost on the minds of the industry to protect the public, as with the retailers -- abuse from any casket store retailer is as far as I know of - unheard of. Over the last 6 years if that was the intent, there would be many stories or complaints from the public. Indeed, even the NCRA and other retailer associations would expose any fraud for what it was, as we all want no part of it. It has not happened, and therefore, these manufactures who allocate who their customers are, other boycotting and restriction, anti-trust issues should be the focus of the FTC and state authorities. Casket store owners have put thousands of dollars in their business, starting and staying in business to make a living by helping the public avoid outrageous prices on funeral goods. Instead, many have seen their dreams cost them their life's saving by these actions of the "Robber barons."

To quote Charlie Condon, Attorney General of South Carolina: "When prices are artificially kept higher than the market dictates, consumers, and ultimately the economy suffers."

---Copy---

From: Jwomacksales@aol.com

Date: Thursday, October 03, 2002 03:09:25 PM

To: casketstores@email.com

Subject: FYI CASKET CEASE AND DESIST ORDER LOUISIANA

Betty Brown:

Thank you for bring to my attention the FTC hearing.

As I have told you, the Louisiana Funeral Board has restricted trade between Louisiana residents and Internet casket sellers. My daughter, JULIE GIROUX, whowas raised in Louisiana and has hundreds of Louisiana contracts, is now a resident of Mississippi, a Mississippi voter and Mississippi property/homeowner. As the Owner/Manager of CASKET STORES OF AMERICA, LLC JACKSON MISSISSIPPI she is now under a LOUISIANA CEASE AND DESIST ORDER, NOT ONLY TO STOP SELLING CASKETS IN LOUISIANA BUT NOT EVEN TO TALK TO ANY LOUISIANA RESIDENTS ABOUT ANY FUNERAL MERCHANDISE (CASKETS). I was also ordered to cease and desist all Louisiana casket sales, and activity as the delivery person for the Mississippi store. TV ads for CASKET STORES OF AMERICAN, LLC (that run on a Federal licensed ARKANSAS TV station that beams into Louisiana with her Mississippi 800 number) have also come under fire, and ordered ceased by the Louisiana Board. I really wonder about this broad reach of power by the LOUISIANA FUNERAL BOARD. HOW CAN THEY REGULATE A FEDERAL TV STATION IN ANOTHER STATE?

They do it with fear, power, and police action/fines.

Of course, this action has caused her great harm, fear, and almost closed her Mississippi business as the Internet and TV was her marketing plan.

And, as you know, I filed a Federal Law suit in Monroe, LA, but the Funeral Directors had the power to get the suit moved to New Orleans, and my right to a speedy trail has now been waiting for over a year, and the hearing date is posted for January 03.

There is no fairness in Louisiana, if we were to get an order to deliver a casket we are under the C&D order not to.

As I told you earlier, the inspector for the Funeral Board tried to trick my wife with an offer to order caskets to open a store in South Louisiana.

You have my permission to forward this to any person or firm. Jerald H. Womack

---End---

1 <http://www.casketstores.org/corgnewspr.html> Customers don't often request caskets by brand name. The reason for this is because purchases are often years apart and customers forget a majority of their prior purchase experience. Also, funeral homes tend to carry only one brand and often don't promote the differences between brands. In reality caskets are a very generic product.

2 <http://www.sieler.com/catskill.problem.html> Sudden Boycott: A letter to the FTC August 8, 1997 Attorney Eugene Lipkowitz Federal Trade ... Our company, Catskill Casket Co., Ltd. (No longer in business I might mention) also found on the FAMSAs website

3 <http://www.funerals.org/social.htm> How the Texas Funeral Service Commission may add millions to consumer funeral expenses <http://www.oag.state.tx.us/opinopen/opinions/op49cornyn/jc-0505.htm> resolved only due to Texas Association of Funeral Merchandise Retailers Assoc. <http://www.tafr.org/> and if Calif. <http://www.casketretailers.com/index.shtml> Fighting "bundling" and other unfair competition Fighting "price matching" SB1555

4 <http://thestandard.com/article/display/0,1151,19502,00.html> Click-and-Mortar Funeral Homes

5 <http://casketstores.com/> The mission statement of the NCRA is to provide consumer education, keep abreast of the ever changing trends in the casket retail business and laws which affect this industry- to combat , oppose, publicize & uncover any anti competitive activity by any funeral homes and death care industry suppliers or personnel.

End of doc. 2 submitted by Betty Brown, Vice Chair, NCRA
CEO A Team Masters, <http://www.burialitems.com>

Issues for Discussion by Funeral/Caskets Panel: Submitted by Al Barnes, co-attendee FTC 10/09

1) General Issues

Competition law and policy play important roles when acting in synergy for e-commerce. However, law (FTC Funeral Rule) and policy (enforcement) are NOT a cohesive axiom at present. For instance, bundling of services and goods (tying) is illegal, however, lack of enforcement continues to injure the consumer through high prices of so called discounted packages.

Business and Professions codes require any business to give a physical address to conduct business over the internet. Some states require license numbers to be advertised on business cards, vehicles, place of business and any newspaper ad or media (TV or radio). This is being completely avoided by funeral homes that have web-sites posing as casket retailers. For example, in Riverside, California, four ads appear daily in the newspaper for casket stores with their website addresses. Of the four ads, only one is a true independent casket retailer. The other three are casket stores owned by funeral homes. Two have physical addresses listed but NONE of them list a funeral directors license number to inform the consumer that they are really dealing with a funeral home.

The business of selling caskets over the internet is being restricted due to anti-competitive efforts of casket manufacturers and funeral homes policy. For example, the major manufacturers will not sell to casket retailers because of pressure put on them by funeral homes and funeral homes make it as difficult as they can for consumers by difficult to understand discount packages. This problem is hard enough locally but it is magnified when trying to conduct a transaction over the internet. For instance, how does a casket retailer deliver a Batesville casket to a buyer in another state? They don't, unless the casket store website is owned by a funeral home. Only funeral homes with the co-operation of Batesville have the means to make this transaction occur.

2) Issues specific to the funeral and casket industry over the Internet.

As the above indicates, true casket retailers (versus funeral home casket retailers) are at a distinct disadvantage. This policy limits consumer choices as well as prices.

There is no level playing field as long as the major manufacturers restrict sales to the independent store owners. To add to this problem, the casket manufacturers have a policy now that only funeral home owned stores could utilize the company's delivery system when sending a casket to another funeral home. This practice is not afforded to the independent casket retailer, thus further limiting the retailer from competing on a level field and passing savings on to the consumer.

To date, there is no empirical data as to how many caskets are sold to consumers over the internet by true casket stores, but the anti-competitive restrictions are many. Some states require store owners to be licensed funeral directors or restrict the ability to obtain name brand products etc. All the requirements are for the protection of the funeral home to keep the casket sale NOT for the consumer.

Regulatory approaches are simple, enforce the FTC statutes and regulations that are in place. Tying, bundling and price-matching are all illegal as stated by the Funeral Rule. Funeral homes publish General Price Lists that reflect these violations in print. Have any of these funeral homes been cited by federal or state agencies, let alone fined, put on probation or closed?

The answer is NO! The statement I received from the Department of Consumers Affairs in California when I voiced a complaint was if the FTC doesn't do anything to enforce these violations, why should we? Of course the Funeral and Cemetery Bureau enforcement agents (in California) are former funeral directors, so one would expect an answer like that.

Class action lawsuits are many in the funeral industry, from pre-needs, trusting of funds, casket sealing claims, wrongful cremations, fraud and abuse toward consumers trying to purchase caskets from outside the funeral home, the list goes on....

The focus of the current legislation should be for the consumer only. Not statutes and regulations for the protectionism of big business. This is also true of internet sales of any product. The consumer deserves the best possible choice of product for their dollar. The FTC and the state DCA need to ensure that this happens, unhampered by anti-competitive policies or political practices that only protect big business.

In closing, there has never been a class action suit against a casket retailer for any cause or action. Funeral homes, funeral directors and casket manufacturers, cannot make the same claim. Perhaps more enforcement is needed in those fields, but until the consumer has been harmed not helped by this fledgling industry, we should be allowed to continue doing business as we always have done.

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